

Securities and Exchange Commission

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issuances and other corporate actions are covered by, or excluded from, the prohibition in paragraphs (a) and (b) of this section, respectively, if such rule, stated policy, practice, or interpretation is consistent with the protection of investors and the public interest, and otherwise in furtherance of the purposes of the Act and this section.

[53 FR 26394, July 12, 1988]

240.19c-5 Governing the multiple listing of options on national securities exchanges.

(a) The rules of each national securities exchange that provides a trading market in standardized put or call options shall provide as follows:

(1) On and after January 22, 1990, but not before, no rule, stated policy, practice, or interpretation of this exchange shall prohibit or condition, or be construed to prohibit or condition or otherwise limit, directly or indirectly, the ability of this exchange to list any stock options class first listed on an exchange on or after January 22, 1990, because that options class is listed on another options exchange.

(2) During the period from January 22, 1990, to January 21, 1991, but not before, no rule, stated policy, practice, or interpretation of this exchange shall prohibit or condition, or be construed to prohibit or condition or otherwise limit, directly or indirectly, the ability of this exchange to list up to ten classes of standardized stock options overlying exchange-listed stocks that were listed on another options exchange before January 22, 1990. These ten classes shall be in addition to any option on an exchange-listed stock trading on this exchange that was traded on more than one options exchange before January 22, 1990.

(3) On and after January 21, 1991, but not before, no rule, stated policy, practice, or interpretation of this exchange shall prohibit or condition, or be construed to prohibit or condition or otherwise limit, directly or indirectly, the ability of this exchange to list any stock options class because that options class is listed on another options exchange.

(b) For purposes of paragraph (a)(2) of this Rule, if any options class is delisted from an options exchange as a

result of a merger of the equity security underlying the option or a failure of the underlying security to satisfy that exchange's options listing standards, then the exchange is permitted to select a replacement option from among those standardized options overlying exchange-listed stocks that were listed on another options exchange before January 22, 1990.

(c) For purposes of this Rule, the term *exchange* shall mean a national securities exchange, registered as such with the Commission pursuant to Section 6 of the Securities Exchange Act of 1934, as amended.

(d) For purposes of this Rule, the term *standardized option* shall have the same meaning as that term is defined in Rule 9b-1 under the Securities Exchange Act of 1934, as amended, 17 CFR 240.9b-1.

(e) For purposes of this Rule, the term *options class* shall have the same meaning as that term is defined in Rule 9b-1 under the Securities Exchange Act of 1934, as amended, 17 CFR 240.9b-1.

[54 FR 23976, June 5, 1989]

§ 240.19d-1 Notices by self-regulatory organizations of final disciplinary actions, denials, bars, or limitations respecting membership, association, participation, or access to services, and summary suspensions.

(a) *General.* If any self-regulatory organization for which the Commission is the appropriate regulatory agency takes any action described in this rule to which the person affected thereby has consented and such action:

(1) Conditions or limits membership or participation in, association with a member of, or access to services offered by, such organization or a member thereof and

(2) Is based upon a statutory disqualification defined in section 3(a)(39) of the Act, notice thereof shall be filed under Rule 19h-1 and not under this rule.

(b) The notice requirement of section 19(d)(1) of the Act, concerning an action subject to such section taken by a self-regulatory organization for which the Commission is the appropriate regulatory agency, shall be satisfied by any notice with respect to such action

(including a notice filed pursuant to this rule) which contains the information required in the statement supporting the organization's determination required by section 6(d) (1) or (2), section 15A(h) (1) or (2), or section 17A(b)(5) (A) or (B) of the Act, as appropriate.

(c)(1) Any self-regulatory organization for which the Commission is the appropriate regulatory agency that takes any final disciplinary action with respect to any person shall promptly file a notice thereof with the Commission in accordance with paragraph (d) of this section. For the purposes of this rule, a "final disciplinary action" shall mean the imposition of any final disciplinary sanction pursuant to section 6(b)(6), 15A(b)(7), or 17A(b)(3)(G) of the Act or other action of a self-regulatory organization which, after notice and opportunity for hearing, results in any final disposition of charges of:

- (i) One or more violations of—
 - (A) The rules of such organization;
 - (B) The provisions of the Act or rules thereunder; or
 - (C) In the case of a municipal securities broker or dealer, the rules of the Municipal Securities Rulemaking Board;
- (ii) Acts or practices constituting a statutory disqualification of a type defined in subparagraph (D) or (E) (except prior convictions) of section 3(a)(39) of the Act; or
- (iii) In the case of a proceeding by a national securities exchange or registered securities association based on section 6(c)(3)(A)(ii), 6(c)(3)(B)(ii), 15A(g)(3)(A)(ii), or 15A(g)(3)(B)(ii) of the Act, acts or practices inconsistent with just and equitable principles of trade.

Provided, however, That in the case of a disciplinary action in which a national securities exchange imposes a fine not exceeding \$1000 or suspends floor privileges of a clerical employee for not more than five days for violation of any of its regulations concerning personal decorum on a trading floor, the disposition shall not be considered "final" for purposes of this paragraph if the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies at the exchange with respect

to the matter. *Provided further,* That this exemption from the notice requirement of this paragraph shall not be available where a decorum sanction is imposed at, or results from, a hearing on the matter.

(2) Any disciplinary action, other than a decorum sanction not deemed "final" under paragraph (c)(1) of this section, taken by a self-regulatory organization for which the Commission is the appropriate regulatory agency against any person for violation of a rule of the self-regulatory organization which has been designated as a minor rule violation pursuant to a plan or any amendment thereto filed with and declared effective by the Commission under this paragraph, shall not be considered "final" for purposes of paragraph (c)(1) of this section if the sanction imposed consists of a fine not exceeding \$2500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies at the self-regulatory organization with respect to the matter. After appropriate notice of the terms of substance of the filing or a description of the subjects and issues involved and opportunity for interested persons to submit written comment, the Commission may, by order, declare such plan or amendment effective if it finds that such plan or amendment is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act. The Commission in its order may restrict the categories of violations to be designated as minor rule violations and may impose any other terms or conditions to the plan (including abbreviated reporting of selected minor rule violations) and to the period of its effectiveness which it deems necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

(d) *Contents of notice required by paragraph (c)(1).* Any notice filed pursuant to paragraph (c)(1) of this section, shall consist of the following, as appropriate:

- (1) The name of the respondent concerned together with his last known place of residence or business as reflected on the records of the self-regulatory organization and the name of

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the person, committee, or other organizational unit which brought the charges involved; except that, as to any respondent who has been found not to have violated a provision covered by a charge, identifying information with respect to such person may be deleted insofar as the notice reports the disposition of that charge, unless, prior to the filing of the notice, the respondent requests otherwise;

(2) A statement describing the investigative or other origin of the action;

(3) As charged in the proceeding, the specific provisions of the Act, the rules or regulations thereunder, the rules of the organization, and, in the case of a registered securities association, the rules of the Municipal Securities Rulemaking Board, and, in the event a violation of other statutes or rules constitutes a violation of any rule of the organization, such other statutes or rules; and a statement describing the answer of the respondent to the charges;

(4) A statement setting forth findings of fact with respect to any act or practice which such respondent was charged with having engaged in or omitted; the conclusion of the organization as to whether such respondent is deemed to have violated any provision covered by the charges; and a statement of the organization in support of the resolution of the principal issues raised in the proceedings;

(5) A statement describing any sanction imposed, the reasons therefor, and the date upon which such sanction has or will become effective, together with a finding if appropriate, as to whether such respondent was a cause of any sanction imposed upon any other person; and

(6) Such other matters as the organization may deem relevant.

(e) *Notice of final denial, bar, prohibition, termination or limitation based on qualification or administrative rules.* Any final action of a self-regulatory organization for which the Commission is the appropriate regulatory agency that is taken with respect to any person constituting a denial, bar, prohibition, or limitation of membership, participation or association with a member, or of access to services offered by a self-regulatory organization or a member

thereof, and which is based on an alleged failure of any person to:

(1) Pass any test or examination required by the rules of the Commission or such organization;

(2) Comply with other qualification standards established by rules of the Commission or such organization; or

(3) Comply with any administrative requirements of such organization (including failure to pay entry or other dues or fees or to file prescribed forms or reports) not involving charges of violations which may lead to a disciplinary sanction

Shall not be considered a "disciplinary action" for purposes of paragraph (c) of this rule; but notice thereof shall be promptly filed with the Commission in accordance with paragraph (f) of this section, *Provided, however*, That no disposition of a matter shall be considered "final" pursuant to this paragraph which results merely from a notice of such failure to the person affected, if such person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies within such organization with respect to such a matter.

(f) *Contents of notice required by paragraph (e).* Any notice filed pursuant to paragraph (e) of this section shall consist of the following, as appropriate:

(1) The name of each person concerned together with his last known place of residence or business as reflected on the records of the organization;

(2) The specific provisions of the Act, the rules or regulations thereunder, the rules of the organization, and, in the case of a registered securities association, the rules of the Municipal Securities Rulemaking Board, upon which the action of the organization was based, and a statement describing the answer of the person concerned;

(3) A statement setting forth findings of fact and conclusions as to each alleged failure of the person to pass any required examination, comply with other qualification standards, or comply with administrative obligations, and a statement of the organization in support of the resolution of the principal issues raised in the proceeding;

(4) The date upon which such action has or will become effective; and

(5) Such other matters as the organization may deem relevant.

(g) *Notice of final action based upon prior adjudicated statutory disqualifications.* Any self-regulatory organization for which the Commission is the appropriate regulatory agency that takes any final action with respect to any person which:

(1) Denies or conditions membership or participation in, or association with a member of, such organization or prohibits or limits access to services offered by such organization or a member thereof; and

(2) Is based upon a statutory disqualification of a type defined in subparagraph (A), (B), or (C) of section 3(a)(39) of the Act or consisting of a prior conviction, as described in subparagraph (E) of said section 3(a)(39), shall promptly file a notice of such action with the Commission in accordance with paragraph (h) of this section, *provided, however*, That no disposition of a matter shall be considered “final” pursuant to this paragraph where such person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies within such organization with respect to such a matter.

(h) *Contents of notice required by paragraph (g).* Any notice filed pursuant to paragraph (g) of this section shall consist of the following, as appropriate:

(1) The name of the person concerned together with his last known place of residence or business as reflected on the record of the organization;

(2) A statement setting forth the principal issues raised, the answer of any person concerned, and a statement of the organization in support of the resolution of the principal issues raised in the proceeding;

(3) Any description furnished by or on behalf of the person concerned of the activities engaged in by the person since the adjudication upon which the disqualification is based;

(4) Any description furnished by or on behalf of the person concerned of the prospective business or employment in which the person plans to engage and the manner and extent of supervision to be exercised over and by such person;

(5) A copy of the order or decision of the court, the Commission or the self-regulatory organization which adjudicated the matter giving rise to such statutory disqualification;

(6) The nature of the action taken and the date upon which such action is to be made effective; and

(7) Such other matters as the organization deems relevant.

(i) *Notice of summary suspension of membership, participation, or association, or summary limitation or prohibition of access to services.* If any self-regulatory organization for which the Commission is the appropriate regulatory agency summarily suspends a member, participant, or person associated with a member, or summarily limits or prohibits any person with respect to access to or services offered by the organization or (in the case of a national securities exchange or a registered securities association) a member thereof pursuant to the provisions of section 6(d)(3), 15A(h)(3) or 17A(b)(5) (C) of the Act, such organization shall, within 24 hours of the effectiveness of such summary suspension, limitation or prohibition notify the Commission of such action, which notice shall contain at least the following information:

(1) The name of the person concerned together with his last known place of residence or business as reflected on the records of the organization;

(2) The date upon which such summary action has or will become effective;

(3) If such summary action is based upon the provisions of section 6(d)(3)(A), 15A(h)(3)(A), or 17A(b)(5)(C)(i) of the Act, a copy of the relevant order or decision of the self-regulatory organization;

(4) If such summary action is based upon the provisions of section 6(d)(3)(B) or (C), 15A(h)(3)(B) or (C), or 17A(b)(5)(C)(ii) or (iii) of the Act, a statement describing, as appropriate:

(i) The financial or operating difficulty of the member or participant upon which such organization determined the member or participant could not be permitted to continue to do business with safety to investors, creditors, other members or participants, or the organization;

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(ii) The pertinent failure to meet qualification requirements or other prerequisites for access and the basis upon which such organization determined that the person concerned could not be permitted to have access with safety to investors, creditors, other members, or the organization; or

(iii) The default of any delivery of funds or securities to a clearing agency by a participant.

(5) The nature and effective date of the suspension, limitation or prohibition; and

(6) Such other matters as the organization deems relevant.

(15 U.S.C. 78f, 78k-1, 78o, 78o-3, 78q, 78q-1, 78s and 78w)

[42 FR 36415, July 14, 1977, as amended at 49 FR 23831, June 8, 1984]

§ 240.19d-2 Applications for stays of disciplinary sanctions or summary suspensions by a self-regulatory organization.

If any self-regulatory organization imposes any final disciplinary sanction as to which a notice is required to be filed with the Commission pursuant to Section 19(d)(1) of the Exchange Act, 15 U.S.C. 78s(d)(1), pursuant to Section 6(b)(6), 15A(b)(7) or 17A(b)(3)(G) of the Act (15 U.S.C. 78f(b)(6), 78o-3(b)(7) or 78q-1(b)(3)(G)), or summarily suspends or limits or prohibits access pursuant to Section 6(d)(3), 15A(h)(3) or 17A(b)(5)(C) of the Act (15 U.S.C. 78f(d)(3), 78o-3(h)(3) or 78q-1(b)(5)(C)), any person aggrieved thereby for which the Commission is the appropriate regulatory agency may file with the Commission a written motion for a stay of imposition of such action pursuant to Rule 401 of the Commission's Rules of Practice, § 201.401 of this chapter.

[60 FR 32825, June 23, 1995]

§ 240.19d-3 Applications for review of final disciplinary sanctions, denials of membership, participation or association, or prohibitions or limitations of access to services imposed by self-regulatory organizations.

Applications to the Commission for review of any final disciplinary sanction, denial or conditioning of membership, participation, bar from association, or prohibition or limitation with respect to access to services offered by

a self-regulatory organization or a member thereof by any such organization shall be made pursuant to Rule 420 of the Commission's Rules of Practice, § 201.420 of this chapter.

[60 FR 32825, June 23, 1995]

§ 240.19g2-1 Enforcement of compliance by national securities exchanges and registered securities associations with the Act and rules and regulations thereunder.

(a) In enforcing compliance, within the meaning of section 19(g) of the Act, with the Act and the rules and regulations thereunder by its members and persons associated with its members, a national securities exchange or registered securities association is not required:

(1) To enforce compliance with sections 12 (other than sections 12(j) and 12(k)), 13, 14 (other than section 14(b)), 15(d) and 16 and the rules thereunder except to the extent of any action normally taken with respect to any person which is not a member or a person associated with a member;

(2) To enforce compliance with respect to persons associated with a member, other than securities persons or persons who control a member; and

(3) To conduct examinations as to qualifications of, require filing of periodic reports by, or conduct regular inspections (including examinations of books and records) of, persons associated with a member, other than securities persons whose functions are not solely clerical or ministerial.

(b) For the purpose of this rule:

(1) A *securities person* is a person who is a general partner or officer (or person occupying a similar status or performing similar functions) or employee of a member; *Provided, however*, That a registered broker or dealer which controls, is controlled by, or is under common control with, the member and the general partners and officers (and persons occupying similar status or performing similar functions) and employees of such a registered broker or dealer shall be securities persons if they effect, directly or indirectly, transactions in securities through the member by use of facilities maintained or supervised by such exchange or association; and